

ENTERED

February 23, 2023

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

TRAY DEWAYNE GREEN,

Petitioner,

v.

BOBBY LUMPKIN,

Respondent.

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Civil Action No. 6:22-CV-00007

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the July 25, 2022 Memorandum and Recommendation (“M&R”) prepared by Magistrate Judge Julie K. Hampton. (Dkt. No. 22). Magistrate Judge Hampton made findings and conclusions and recommended that Respondent’s Motion to Dismiss be granted. (*Id.* at 1). Magistrate Judge Hampton further recommended that the Court deny a Certificate of Appealability. (*Id.*).

The Parties were provided proper notice and the opportunity to object to the M&R. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Here, no timely objection was filed. Instead, after the deadline to submit objections had passed, on September 6, 2022, Plaintiff filed a “Memorandum of Law” in which he recounts his original petition. (Dkt. No. 24).

In accordance with 28 U.S.C. § 636(b)(1)(C), the Court is required to “make a de novo determination of those portions of the [magistrate judge’s] report or specified proposed findings or recommendations to which objection [has been] made.” After conducting this de novo review, the Court may “accept, reject, or modify, in whole or in

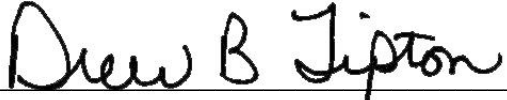
part, the findings or recommendations made by the magistrate judge.” *Id.*; *see also* Fed. R. Civ. P. 72(b)(3).

The Court has carefully considered de novo those portions of the M&R to which objection was made, and reviewed the remaining proposed findings, conclusions, and recommendations for plain error. Finding no error, the Court accepts the M&R and adopts it as the opinion of the Court. It is therefore ordered that:

- (1) Magistrate Judge Hampton’s M&R, (Dkt. No. 22), is **ACCEPTED** and **ADOPTED** in its entirety as the holding of the Court; and
- (2) Defendants’ Motion to Dismiss, (Dkt. No. 19), is **GRANTED**.

It is SO ORDERED.

Signed on February 23, 2023.



DREW B. TIPTON
UNITED STATES DISTRICT JUDGE